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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,788	08/29/2000	Curtis Wong	149506.2	9863

27195 7590 04/21/2006

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EXAMINER

HUYNH, SON P

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/649,788

Applicant(s)

WONG ET AL.

Examiner

Son P. Huynh

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See *Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-76.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

HAITRAN
PRIMARY EXAMINER

Continuation of 3. NOTE: amendment to claims such as "a description of the audio and/or visual program content..." in claim 39 change scope of the claim and require further consideration and/or search

Applicant argues services provided to a program provider/broadcaster/content provider are described in the Application (e.g., sending demographic and marketing information to the program provider, etc.). These service can allow a program provider/broadcaster/content provider, for instance, to deliver targeted advertisement and to determine the rates to charge for advertisement. Ellis does not disclose any such service (page 16, paragraph 2).

In response, these services are not recited in the claims.

Applicant further argues Ellis discloses providing a user with listing information enables the user to program a device to record a program in the listing (see Ellis at para. 0127, noting that to program a device, the user first selects a program from the program listing). Thus, providing a listing is not a service additional to programming the device. Second, providing parental controls and weather information to a user are services provided to a user, not the program provider/broadcaster (page 15, paragraph 4).

In response, this argument is respectfully traversed. First, as admitted by the Applicant, Ellis provides a user with listing information ENABLES the user to program a device to record a program in the listing (page 15, paragraph 3, lines 8-9). Ellis does not disclose the listings are services to programming the associated device as claimed. Second, Ellis discloses interactive program guide data transmitted by main facility 12 to interactive television program guide equipment 17 may includes the television program listing data (e.g., program times, channels, titles, and descriptions) and other program guide data for additional services other than television program listings (e.g. pay per view information, weather information, associated Internet web links, computer software, etc. paragraph 0167. Thus, the program listings data itself such as program titles, program times, etc. is not "token services to programming the associated device" unless the user select it and set a schedule to program the associated device with an associated software (e.g. schedule for particular program to be recorded), other services such as weather service also read on the "additional service" as claimed since the weather service is not "programming the associated device" and the weather service is transmitted by main facility to interactive program guide equipment 17 (see paragraph 0067 - not "providing weather information to a user are services provided to a user, not the program provider/broadcaster" as argued by Applicant). Therefore, the claimed feature "provide token services to the program provider, the token service comprises one or more services additional to programming the associated device" is met by providing services to television facility device from the main facility, from user television equipment, or from remote device, wherein the service comprises program titles, weather service, etc. additional to programming the associated device (wherein the services programming the associated device is interpreted as, for example, schedule particular program to be recorded, update schedule, etc received at distribution facility from main facility, user terminal, or remote device).

Applicant further argues Ellis does not inherently disclose or suggest monitoring token translation. The examiner has not provided sufficient evidence to establish inherently (page 16, paragraph 3, lines 9-10).

In response, this argument is respectfully traversed. As indicated in the Final Office Action, Ellis discloses the program guide information and program guide data and other information comprises program title, program channel, program times, descriptions, etc. (paragraph 0067). Ellis further discloses television distribution facility 16 polls user television equipment periodically for certain information (e.g. pay program account information or information regarding programs that have been purchase and viewed using locally generated authorization techniques – paragraph 0070). Information on user's preferences (e.g. which channels or program are favorites, favorite themes, likes or dislike, etc.) is obtained (paragraphs 0124, 0136). Favorites information is stored on the storage 56 at the remote device 24 and providing the program information via the television distribution facility (16) according user favorite information and/or user's preferences information. Thus, the token translation (i.e. program title, channel, or any information that identifies the program or information in user's preference or user favorite) must be monitored so that only appropriate program is provided via television distribution facility (16). For example, only favorite information or selected program guide information is provided to television distribution facility (16) either from main facility (12) or user equipment (22) for further transmitted to remote device (24) or user television equipment (22) – see including, but not limited to paragraphs 0127-0128, 0131. Therefore, the Examiner has provided sufficient evidence (e.g. monitor to select favorite data) to establish inherency.

In response to applicant's argument that there is no suggestion to combine the references (page 17), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, obviousness/motivation is found in the knowledge generally available to one of ordinary skill in the art as shown in the previous Office Action that is to provide an alternative way to send control information in Internet medium. Furthermore, the motivation is also found in the references themselves. Particularly, Ellis discloses a system for providing information comprises video program information such as channel, title, etc. from one location to another location (see including, but not limited to, figures 1-3, paragraphs 0067). Ellis further discloses using message for communication between different devices such as user equipment (22) and remote control device (24) (paragraphs 0173-0174).

Hirata, in analogous art, also discloses a system for providing information comprising video program information such as channel, title, and etc. from one location to another location (figure 1). Hirata additionally discloses using message for communication between different devices and the message comprises video recording reservation information –figures 3-7, which is interpreted as "message having associated token service", as being claimed. Therefore, it would have been clearly obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the of a message having associated token as taught by Hirata in order to provide an alternative way to send control information over Internet medium or in order to reduce installation cost or allow user to change setting of the timer from the outside of the house easily (col. 1, lines 27-45).

maintained as discussed in the Final Office Action dated 02/03/2006